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GENEVA PASS USDEL UNECOSOC
STOCKHOLM PASS SCHWEBEL (LEGAL ADVISER'S OFFICE)

E.O.11652: N/A
TAGS: EFIN, OECD
SUBJECT: FIFTH XCSS EXPERTS MEETING ON INVESTMENT, JULY 8-9, 1974

REFS: (A) USOECD PARIS 2529
(B) STATE 137390
(C) ANNEX I OF ADDENDUM TO DAC(74)16 (BEING POUCHED)
(D) CES 74.75
(E) CES 74.40 (1ST REVISION)

1. SUMMARY. MAIN FOCUS OF MEETING WAS VIEWS EXCHANGE ON UN EMINENT PERSON'S REPORT ON MNC'S. DISCUSSION EXTENSIVE AND DETAILED ALTHOUGH BASED LARGELY ON PRELIMINARY OR INFORMAL POSITIONS. BULK OF COMMENTS MADE BY U.S., U.K., GERMANY, CANADA, JAPAN AND EC. CONSENSUS THAT UN REPORT DOES NOT JUSTIFY CHANGE IN OECD INVESTMENT WORK PROGRAM, BUT XCSS WILL BE ASKED GUIDANCE ON EXTENT OECD SHOULD TAKE ACCOUNT OF GENERAL LDC ASPECTS. STATEMENTS SHOWED WIDESPREAD DISSATISFACTION WITH TONE AND CONTENT UN REPORT. MAJORITY THOSE EXPRESSING VIEWS INDICATED WOULD NOT WISH BLOCK PROPOSALS FOR INSTITUTIONAL MACHINERY (AND DID NOT THINK THEY COULD), BUT WOULD SEEK TO CHANGE OR CIRCUMSCRIBE TERMS OF REFERENCE. MOST FELT (A) COMMISSION SHOULD CONSIST OF GOVERNMENTAL REPRESENTATIVES AND SHOULD AT THIS STAGE NOT SET FIRM AIM OF DEVELOPING CODE OF CONDUCT AND INTERNATIONAL AGREEMENT ON MNC'S, (B) RESEARCH AND INFORMATION CENTER SHOULD BE PART OF UN SECRETARIAT, AND (C) TECHNICAL ASSISTANCE SHOULD PREFERABLY BE LEFT TO UNDP AND OTHER EXISTING AGENCIES. U.S. IDEA OF POSSIBLE INTERIM COMMITTEE GENERALLY RECEIVED WITH SYMPATHY, BUT MANY DOUBTED FEASIBILITY AND POLITICAL DESIRABILITY. MOST OF LIMITED OFFICIAL USE

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SPECIFIC RECOMMENDATIONS OF REPORT FAULTED IN SOME RESPECT. ON OECD INVESTMENT WORK PROGRAM, AS SUCH, SECRETARIAT REPORTED ON PROGRESS MNC WORK IN SPECIALIZED COMMITTEES AND EXPERTS HELD ANOTHER INCONCLUSIVE DISCUSSION ON MNC DEFINITIONAL PROBLEMS. NO DATE SET FOR NEXT MEETING EXPERTS, WHICH WILL DEPEND ON DECISIONS AT XCSS MEETING IN OCT WHICH WILL BE MOSTLY DEVOTED TO INVESTMENT MATTERS. END SUMMARY.

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2. INTRODUCTORY REMARKS ON UN EMINENT PERSONS REPORT. CHAIRMAN (ABRAMOWSKI) NOTED EMINENT PERSONS REPORT POSED QUESTION OF POSSIBLE IMPLICATIONS FOR OECD'S WORK PROGRAM ON INVESTMENT AND MNC'S AND, IN PARTICULAR, WHETHER OECD SHOULD INTENSIFY ITS WORK ON DEVELOPMENTAL ASPECT OF INVESTMENT. ADDITIONALLY, XCSS INVESTMENT EXPERTS MEETING AFFORDED POSSIBILITY INFORMAL EXCHANGE OF VIEWS ON UN REPORT MORE GENERALLY. PURPOSE WAS NOT COORDINATION OF POSITIONS, BUT RATHER OPPORTUNITY,TO EXTENT EXPERTS WISH DO SO, TO INFORM EACH OTHER OF OPINIONS ON REPORT. WITH EXCEPTION FRENCH REP, WHO ARGUED (SOMEWHAT PRO FORMA) THAT INAPPROPRIATE FOR EXPERTS TO COMMENT ON UN REPORT OTHER THAN IN CONTEXT ITS IMPACT ON OECD WORK, NO OBJECTION RAISED TO CONCEPT UNOFFICIAL EXCHANGE OF VIEWS. HOWEVER, MOST SPEAKERS INDICATED THEIR OBSERVATIONS WERE TENTATIVE (AND IN SOME CASES EVEN PERSONAL).

3. IMPLICATIONS UN REPORT FOR OECD WORK. THERE WAS NO DISSENT FROM SECRETARIAT'S VIEW EXPRESSED IN REFDOC D THAT UN REPORT IMPLIES NO NEED TO CHANGE CONTENT OR

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DIRECTION OF OECD'S PRESENT WORK PROGRAM ON MNC'S, WHICH IN TECHNICAL RESPECTS MORE THOROUGH AND ADVANCED THAN UN WORK. HOWEVER, IN REPLY ABRAMOWSKI'S QUESTION WHETHER OECD SHOULD IN FUTURE TAKE MORE ACCOUNT OF DEVELOPMENTAL ASPECTS OF INVESTMENT (AS SEPARATE SUBJECT NOT IN TERMS BROADENING FOCUS OF PRESENT OECD INVESTMENT EXERCISE AWAY FROM MEMBER COUNTRIES), SEVERAL EXPERTS FELT APPROPRIATE ASK FOR XCSS GUIDANCE. ABRAMOWSKI SUMMARIZED THIS PART OF DISCUSSION SAYING REPORT TO OCT XCSS WILL MAKE REFERENCE TO UN WORK ON MNC'S AND WILL RAISE QUESTION WHETHER XCSS BELIEVES CLIMATE FOR INVESTMENT IN LDC'S, AND MNC WORK IN OTHER FORUMS, SHOULD BE GIVEN MORE ATTENTION AND HOW COOPERATION BETWEEN OECD AND UN MIGHT BE ACHIEVED. IN CASE XCSS GIVES AFFIRMATIVE ANSWER, DAC WOULD HAVE ROLE, BUT BROADER ASPECTS WOULD HAVE TO BE COVERED ELSEWHERE (NUMBER OF EXPERTS DOUBTED DAC'S SCOPE BROAD ENOUGH FOR

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THIS PURPOSE AND FAVORED CENTRAL ROLE FOR XCSS EXPERTS GROUP.)

4. COMMENTS ON INSTITUTIONAL RECOMMENDATIONS. EXCHANGE OF VIEWS ON REPORT ITSELF BEGAN WITH EXAMINATION OF INSTITUTIONAL MACHINERY PROPOSED IN PART III (REF C, RECOMMENDATIONS 17-20). THERE WAS GENERAL RECOGNITION THAT RECOMMENDATIONS FOR MACHINERY CONSTITUTED MOST SIGNIFICANT PART OF REPORT.

5. DISCUSSION FOCUSED ON 5 AREAS: (A) ECOSOC AS SUITABLE FORUM WITHIN UN TO TAKE UP MNC MATTERS, (B) FORMATION OF COMMISSION ON MNC'S UNDER AUSPICES OF ECOSOC, (C) COMPOSITION OF SUCH COMMISSION, (D) TERMS OF REFERENCE OF COMMISSION, AND (E) ESTABLISHMENT OF AN INFORMATION AND RESEARCH CENTER ON MNC'S.
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6. THERE WAS GENERAL AGREEMENT THAT ECOSOC BEST FORUM IN UN TO FOCUS ON MNC QUESTIONS. GERMANY AND JAPAN SPECIFICALLY INDICATED PREFERENCE FOR ECOSOC OVER UNCTAD, WITH GERMANY INDICATING SOME FEAR THAT PROBLEMS SIMILAR TO THOSE FACED IN UNCTAD AND SIXTH SPECIAL SESSION OF GA MAY ALSO ARISE IN ECOSOC.

7. THERE WAS NOT ENTHUSIASM FOR COMMISSION, BUT RATHER FEELING THAT ORGANIZATION OF SOME TYPE OF BODY WAS INEVITABLE AND COULD BE LIVED WITH IF CERTAIN CONDITIONS (WHICH DIFFERED ACCORDING TO DELEGATION) WERE MET. SOME FEELING THAT, AS GERMANY STATED, COMMISSION WOULD BE BETTER THAN OTHERWISE UNPREPARED DISCUSSION OF MNC'S IN ECOSOC. AUSTRALIA STATED THAT THERE WAS PERHAPS NOT ENOUGH INFORMATION YET AVAILABLE ON MNC'S TO WARRANT SETTING UP NEW MACHINERY. HOWEVER, AUSTRALIAN POSITION ON THE QUESTION STILL BEING FORMULATED. ITALY STILL STUDYING REPORT AND HAS REACHED NO CONCLUSIONS.

8. U.S. DELEGATE, STATING WHAT WAS TERMED PRELIMINARY OFFICIAL POSITION, BEGAN BY STATING SCEPTICISM AS TO DESIRABILITY OF HAVING FULL DISCUSSION OF MNC ISSUE AUTOMATICALLY PLACED ON ECOSOC AGENDA EACH YEAR. THE COMMISSION MAY NOT HAVE SOMETHING WORTH DISCUSSION EACH YEAR, AND AUTOMATIC DISCUSSION WOULD PLACE COMMISSION UNDER NEEDLESS PRESSURE AND LEAD TO HURRIED WORK PRODUCT, AS SHOWN BY THE REPORT ITSELF. THE UK THOUGHT THAT YEARLY REPORT WAS AMBITIOUS GOAL, BUT MORE ADVANTAGEOUS THAN HARMFUL. CANADIAN DELEGATE (READING FROM CANADA'S OFFICIAL ECOSOC POSITION PAPER) NOTED THAT IF COMMISSION WERE COMPOSED OF PRIVATE PERSONS RATHER THAN

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GOVERNMENT REPRESENTATIVES, YEARLY DISCUSSIONS USEFUL TO KEEP TRACK OF WHAT THEY WERE DOING. JAPAN FAVORED YEARLY DISCUSSION, BUT APPEARS NOT TO BE INFLEXIBLE.

9. ON COMPOSITION OF COMMISSION (PRIVATE PERSONS AS RECOMMENDED IN REPORT OR GOVERNMENT REPRESENTATIVES) AND TERMS OF REFERENCE OF COMMISSION, MOST PARTICIPATING DELEGATIONS NOTED THAT THEIR POSITIONS INVOLVED TRADE-OFFS BETWEEN THE TWO TOPICS. U.S.,
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GERMANY, CANADA, SWITZERLAND FELT THAT IF TERMS OF REFERENCE ARE TO BE AS BROAD AS THOSE STATED IN REPORT, THEN ONLY GOVERNMENT REPRESENTATIVES WOULD BE APPROPRIATE ON SUCH MATTERS AS DRAFTING TREATIES, CODE OF CONDUCT AND ACTING AS FOCAL POINT IN UN FOR MNC ISSUES NOT SUITABLE FOR PRIVATE INDIVIDUALS, WHO CANNOT AND SHOULD NOT SPEAK FOR OR COORDINATE GOVERNMENTS. SHOULD TERMS OF REFERENCE BE SUBSTANTIALLY NARROWED TO SUCH MATTERS AS PROVIDING FORUM FOR EXCHANGE OF VIEWS, MAKING STUDIES, COLLECTING AND DISSEMINATING INFORMA-

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TION, THEN PRIVATE INDIVIDUALS COULD BE APPROPRIATE. UK FAVORED PRIVATE INDIVIDUALS AS ECOSOC ITSELF IS ALREADY A GOVERNMENTAL BODY AND PRODUCTION OF REPORT INDICATES THAT COMPOSITION OF INDIVIDUALS NOT UNWORKABLE ARRANGEMENT. HOWEVER, WHO INDIVIDUALS WERE AND WHAT STAFF THEY HAD WERE IMPORTANT FACTORS. UK THOUGHT TERMS OF REFERENCE GENERALLY SATISFACTORY EXCEPT FOR MANDATE TO PRODUCE MULTILATERAL TREATY, WHICH WAS TOO VISIONARY. UK (AND U.S.) NOTED THAT COMMISSION SHOULD NOT STUDY INSTITUTIONS SUCH AS MNC'S, BUT RATHER INTERNATIONAL INVESTMENT ISSUES. JAPAN STILL OPEN AS TO COMPOSITION OF COMMISSION, BUT FELT TERMS OF REFERENCE NEEDED SUBSTANTIAL MODIFICATION.

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10. CONSIDERING GENERAL UNHAPPINESS AS TO TERMS OF REFERENCE AND COMPOSITION OF COMMISSION, U.S. DELEGATE ADVANCED POSSIBILITY OF HAVING ECOSOC ESTABLISH A COMMITTEE OF GOVERNMENT EXPERTS TO EXAMINE THE NEED FOR, AND OTHER ISSUES RELATED TO, A COMMISSION ON MNC'S. THE COMMITTEE'S REPORT WOULD BE SUBMITTED TO ECOSOC NEXT YEAR. WHILE PERSONAL SYMPATHY FOR THIS PROPOSAL WAS EXPRESSED BY DELEGATES OF JAPAN, CANADA AND GERMANY, BECAUSE THEY FELT IT HAD NO CHANCE OF BEING ADOPTED AND BECAUSE THE MERE OFFERING OF SUCH A PROPOSAL WOULD LOOK LIKE FOOT-DRAGGING BY DC'S. SWITZERLAND AND BELGIUM SUPPORTED THE CONCEPT, AS DID THE UK UNDER THE CONDITION THAT THE COMMITTEE WOULD REPORT TO ECOSOC NO LATER THAN OCT. MEETING.

11. IN GENERAL, PARTICIPATING DELEGATIONS FELT THAT IF COMMISSION ESTABLISHED, ITS WORK SHOULD SLOWLY AND NATURALLY EVOLVE AS TO COMPLEXITY OF MATTERS UNDERTAKEN AND THAT SUCH ITEMS AS CREATION OF A GENERAL MNC TREATY
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SHOULD NOT BE CONSIDERED AN IMMEDIATE PROJECT BUT RATHER A POSSIBLE DISTANT GOAL. TO HAVE GENERAL TREATY AN IMMEDIATE AIM WOULD, U.S. DELEGATE POINTED OUT, SEEM TO BE INCONSISTENT WITH THE REPORT ITSELF WHICH SPEAKS (P. 35) OF COMPREHENSIVE PROGRAM OF STUDY, DISCUSSION, NEGOTIATION AND PRACTICAL ACTION.

12. RECOMMENDATION FOR ESTABLISHMENT OF INFORMATION AND RESEARCH CENTER ON MNC'S TOTALLY OPPOSED ONLY BY AUSTRALIA (WHICH WAS NOT PERSUADED THAT A NEW CENTER WAS NEEDED, AS THE TASKS COULD BE HANDLED WITHIN ECOSOCS PRESENT STRUCTURE) AND POSSIBLY BELGIUM, WHICH SPOKE IN GENERAL TERMS OF AVOIDANCE OF DUPLICATION OF INSTITUTIONS DOING SIMILAR TASKS. GENERAL VIEW WAS THAT CENTER SHOULD BE PART OF UN SECRETARIAT AND NOT AUTONOMOUS BODY.

13. WHETHER AND HOW INFORMATION CENTER SHOULD GIVE TECHNICAL ADVISORY SUPPORT TO LDC'S, (AS SUGGESTED IN REPORT) PROVOKED LONG DISCUSSION. U.S. ADVANCED VIEW THAT CENTER SHOULD MAINTAIN STRICT NEUTRALITY AND THUS AVOID ASSISTING LDC'S IN THEIR NEGOTIATIONS WITH MNC'S, AND THAT IT WAS INCONGRUOUS TO ALLOW CENTER TO USE INFORMATION SUPPLIED BY MNC'S AGAINST THESE SAME MNC'S. U.S. DELEGATE DID NOT PRECLUDE THE CENTER FROM, FOR EXAMPLE, GIVING TECHNICAL ASSISTANCE TO UPGRADE PERSONAL SKILLS OF LDC INDIVIDUALS IN SUCH AREAS AS ACCOUNTING, ETC., ALTHOUGH SUCH TASKS ARE PERHAPS BETTER

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PERFORMED BY OTHER UN BODIES. MOST PARTICIPATING DELEGATIONS AGREED THAT IDEA OF AIDING LDC'S IN NEGOTIATING WITH MNC'S SHOULD BE CAREFULLY EXAMINED AND THAT OTHER UN BODIES, SUCH AS UNIDO AND UNDP ARE BETTER SUITED TO GIVE SUCH TECHNICAL ASSISTANCE.

14. U.S. DELEGATE NOTED THE REQUIREMENTS, BOTH LEGAL AND PRACTICAL, FOR CONFIDENTIAL TREATMENT OF CERTAIN INFORMATION TO BE SUPPLIED CENTER. IMPORTANCE OF THIS WAS AGREED UPON GENERALLY.

15. U.S. VIEW THAT ONE OF THE FUNCTIONS OF THE INFORMATION CENTER SHOULD BE TO COORDINATE AND COOPERATE WITH LIMITED OFFICIAL USE

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FORA WORKING ON MNC MATTERS, AND ESPECIALLY THE OECD, WAS SUPPORTED BY THE EEC REPRESENTATIVE (WHO ALSO SAID THAT THE EEC WOULD COOPERATE IN SUPPLYING RELEVANT INFORMATION TO THE CENTER) AND JAPAN.

16. COMMENTS ON SPECIFIC RECOMMENDATIONS. EXPERTS REVIEWED SPECIFIC RECOMMENDATIONS OF REPORT CHAPTER BY CHAPTER AND COMPARED THEMWITH STATUS OF OECD WORK ON MNC'S. U.S. EXPERT EMPHASIZED U.S. OFFICIAL POSITION ON SPECIFIC RECOMMENDATIONS OF REPORT HAS NOT BEEN

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FINALIZED. REFERENCES TO RECOMMENDATIONS BY NUMBER BELOW REFER TO REFDOC C.

17. GENERAL VIEWS OF REPORT. MOST DELEGATES EXPRESSED DISSATISFACTION IN VARYING DEGREES TO QUALITY AND TONE OFREPORT. U.S. NOTED MANY RECOMMENDATIONS NOT BASED ON ANALYSIS OR FACTS BUT RATHER A COMPILATION OF ASSUMPTIONS. MANY RECOMMENDATIONS ARE TENDENTIOUS, SETTING UP AN ADVERSARY RELATIONSHIP BETWEEN MNC'S AND HOST

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GOVERNMENTS. REPORT EXPRESSES A KIND OF DIRIGISTE VIEW OF THE MARKET PROCESS. IT SETS UP, IN MANY CASES, THE PREMISE THAT THE EFFICIENCY AND NATURAL MECHANISMS OF THE MARKETPLACE DO NOT REDOUND TO THE BENEFIT OF HOST COUNTRIES AND THAT, THEREFORE, IT IS NECESSARY TO INTERFERE AND RIGHT THE BALANCE BETWEEN MNC'S AND HOST COUNTRIES. MANY EXPERTS QUESTIONED THE SCOPE OF THE STUDY, WHICH GOES FAR BEYOND PROBLEMS THAT CAN BE CONSIDERED ISSUES RELATING SPECIFICALLY TO MNC'S. MANY COMPARED APPROACH OF REPORT UNFAVORABLY TO FACT-FINDING APPROACH OF OECD. CANADA CALLED REPORT A COMPILATION OF ASSUMPTIONS AND PREJUDICES LACKING STATISTICAL BACKGROUND AND CHARACTERIZED MANY RECOMMENDATIONS AS SILLY AND/OR UNACCEPTABLE. UK SHARED MANY OF ABOVE CRITICISMS OF REPORT.

18. IMPACT ON DEVELOPMENT. EXPERTS FROM U.S., GERMANY, CANADA AND JAPAN QUESTIONED RELEVANCE OF REC L. SERIOUS RESERVATIONS ON REC 5 AND ON REC 6 EXPRESSED BY GERMANY, UK, U.S., AND JAPAN, SINCE THESE LIKELY TO DISCOURAGE FOREIGN INVESTMENT, REINVESTMENT OF EARNINGS, AND TRANSFER OF TECHNOLOGY. CANADA HAS SOME DOUBTS ON 5 BUT CONSIDERS 6 OK.

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19. IMPACT ON INTERNATIONAL RELATIONS. U.S., UK, GERMANY, CANADA, AND JAPAN AGREED ALMOST COMPLETELY ON RESERVATIONS ABOUT RECOMMENDATIONS IN THIS CHAPTER. THESE RECOMMENDATIONS CLOSELY DUPLICATE ISSUES COVERED BY UNCTAD CHARTER OF ECONOMIC RIGHTS AND DUTIES AND UNCTAD DISCUSSIONS SHOULD NOT BE DUPLICATED IN ECOSOC. ANAPPROPRIATE REFERENCE TO INTERNATIONAL LAW SHOULD BE MADE IN RECS 10, 12, 13, AND 14. REC 12 SHOULD INCLUDE PROVISION THAT COMPENSATION BE FREELY TRANSFERRABLE. REC 15 CALLING FOR INTERNATIONAL AGREEMENT ON EXTRATERRITORIALITY EXTREMELY UNLIKELY IN NEAR TERM. MANY NOTED INCONSISTENCY OF REC 15 WITH OTHERS IN REPORT, SUCH AS 14, WHICH WOULD INCREASE EXTRATERRITORIAL ACTIVITIES OF HOME COUNTRIES IN UNACCEPTABLE WAYS. ACCORDINGLY, FIVE ABOVE COUNTRIES NOT HAPPY WITH RECOMMENDATION 16 CALLING FOR ECOSOC RESOLUTION EMBODYING RECOMMENDATIONS 9 THRU 15. SINCE UN SECGEN REPORT DOES NOT MAKE REFERENCE TO REC 16, MANY FELT UNLIKELY SUCH A RESOLUTION WILL BE OFFERED.

20. TECHNOLOGY. ABRAMOWSKI NOTED OECD HAS TAKEN DIFFERENT APPROACH OF EMPHASIZING BUILDUP OF INDIGENOUS SCIENTIFIC AND TECHNOLOGICAL FRAMEWORK. GERMANY EXPRESSED STRONG DISAGREEMENT WITH IMPLICATION IN REC 26

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THAT OBJECTIVE SHOULD BE REDUCING COST OF TECHNOLOGY TO LDC'S. THIS APPROACH POSSIBLE IN CONTEXT OF DEVELOP-MENTAL AID BUT NOT PROPER WAY TO LOOK AT TRANSFER OF TECHNOLOGY IN CONTEXT OF NORMAL COMMERCIAL RELATIONS. UK ALSO BOTHERED BY RECOMMENDATIONS ON TECHNOLOGY, AGREEING WITH GERMANY ON 26 AND SEEING NO FUTURE IN 27 OR 28. U.S. AGREED WITH GERMANY AND UK, ADDING THAT IN MOST CASES IT IS PROBABLY UNDESIRABLE FOR GOVERNMENTS TO INSERT THEMSELVES INTO CHOICE OF PRODUCTS OR TECHNOLOGY AS ENVISAGED IN REC 23 AND 24. CANADA STRONGLY SUPPORTS REC 25 BUT NOT OTHERS.

21. EMPLOYMENT AND LABOR. GENERAL DISSATISFACTION WITH RECOMMENDATIONS IN THIS SECTION WERE EXPRESSED BY U.S., UK, CANADA AND GERMANY. DOUBTFUL HOME COUNTRIES WOULD ENCOURAGE REC 29. REC 31 RAISES SERIOUS BUDGETARY AND OTHER QUESTIONS. RECS 33 AND 34 ARE OBJECTIONABLE.
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RECS 35, 37, AND 38 RAISE SERIOUS QUESTIONS OF EXTRA-TERRITORIALITY. FOLLOWUP ON ANY PROPOSALS IN THIS AREA SHOULD BE IN ILO.

22. CONSUMER PROTECTION. UK EXPRESSED SUPPORT FOR INTENTION OF CHAPTER BUT FOUND RECOMMENDATIONS 39 AND 40 UNSATISFACTORY.

23. COMPETITION AND MARKET STRUCTURE. SECRETARIAT GAVE

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SP-03 TRSE-00 CIEP-02 LAB-06 SIL-01 SWF-02 OMB-01 L-03

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SUMMARY OF WORK OF OECD COMMITTEE OF EXPERTS ON RESTRIC-
TIVE BUSINESS PRACTICES, GIVEN IN RBP(74)4 FIRST REVI-
SION. U.S. NOTED OECD FAR AHEAD OF UN IN THIS FIELD
AND UN SHOULD LEARN FROM THIS WORK. GIVEN DIFFICULTIES
OECD HAS FACED IN THIS AREA, IT IS CLEAR WORLD-WIDE
GOALS OF REPORT AS EXPRESSED IN REC 44 ARE INDEED DIS-

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TANT. IF PRINCIPLE GIVEN IN REC 43 IS VALID, IT IS NOT CLEAR WHY REPORT RESTRICTS APPLICATION TO REGIONAL GROUPS OF COUNTRIES. U.S. DELEGATE DISAGREED WITH COMMENT IN TEXT THAT PROFITS OF MNC'S SHOULD BE RELATED BY HOST GOVERNMENTS TO EXPORT PERFORMANCE. CANADA AGREED WITH U.S. ON 43 AND ON INAPPROPRIATE EMPHASIS ON EXPORT LINKAGE AND INDICATED 41 IS CONSISTENT WITH CANADIAN PRACTICE. CANADA AND GERMANY CITED CONCERN WITH 45 AS THEIR GOVERNMENTS COULD NOT RESTRAIN ENFORCEMENT OF ANTI-TRUST LAWS OR APPLY LAWS PROVISIONALLY. GERMANY EMPHASIZED THAT FOR FORESEEABLE FUTURE NATIONAL ANTI-TRUST POLICIES MUST BE RELIED ON IN THIS AREA. UK SUPPORTED ABOVE VIEWS.

24. TRANSFER PRICING AND TAXATION. SECRETARIAT GAVE REPORT OF WORK OF COMMITTEE ON FISCAL AFFAIRS ON TRANSFER PRICING AND TAXATION OF MNC'S, GIVEN IN CFA(74)6, FIRST REVISION. U.S. NOTED THAT HERE OECD ALSO FAR AHEAD OF UN. HE NOTED RE REC 47 THAT THERE MAY BE CIRCUMSTANCES WHERE USG WOULD FIND EXCHANGE OF DATA INAPPROPRIATE, E.G. IN CASES WHERE LIKELY INFORMATION WOULD BE MISUSED. CANADA NOTED THESE CHAPTERS ARE SIMPLISTIC AND UTOPIAN.

25. INFORMATION DISCLOSURE AND EVALUATION. SECRETARIAT REPORTED ON WORK OF INDUSTRY COMMITTEE IN AREA OF MNC'S, DATA GIVEN IN DIE/IND1(74)6 FIRST REV.
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UK AND CANADA SUPPORTED REC 51. UK, CANADA AND GERMANY EXPRESSED CONSIDERABLE DIFFICULTY WITH REC 52. UK AND CANADA NOTED REPORT'S TREATMENT OF ISSUE OF CONFIDENTIALITY IS INADEQUATE. CANADA NOTED REPORT DOES NOT INDICATE HOW THE UN WOULD OBTAIN DATA, WHICH DATA WILL BE SOUGHT AND HOW THE DATA WILL BE USED. UNTIL THESE QUESTIONS CLEARED UP, CANADA QUITE SKEPTICAL. U.S. EXPRESSED SIMILAR CONCERNS, EMPHASIZING NEED FOR CARE IN FORMULATION OF TERMS OF REFERENCE OF ANY UN DATA SYSTEM. U.S. PREFERENCE WOULD BE THAT SYSTEM RELY ON NATIONAL AUTHORITIES RATHER THAN ESTABLISH A DIRECT RELATIONSHIP WITH MNC'S TO OBTAIN DATA.

26. . REPORT ON ECOSOC DISCUSSIONS IN GENEVA. SECRETARIAT (BLACK) REPORTED ON VERY GENERAL COMMENTS IN ECOSOC THUS FAR ON REPORT. MOST COUNTRIES IN GENERAL TERMS CALLED FOR FOLLOWUP WORK ON REPORT, BUT THUS FAR HAVE STOPPED SHORT OF STATING APPROVAL OF ANY SPECIFICS. U.S. IS AN EXCEPTION, HAVING EXPRESSED SOME SPECIFIC RESERVATIONS. MORE SURPRISINGLY, BRAZIL HAS STATED EXCEPTIONS TO REPORT AND THEREBY HAS ATTRACTED MUCH

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ATTENTION. BRAZIL HAS PROPOSED THAT COMMISSION BE COMPOSED OF GOVERNMENT REPRESENTATIVES AND EXPRESSED CONCERN ABOUT PREMATURE IDEA OF A GENERAL AGREEMENT. PRIVATELY, BRAZIL REPORTED QUESTIONING NEED FOR ANY NEW MACHINERY.

27. ABRAMOWSKI IN FINAL COMMENTS ON REPORT NOTED THAT IT IS UNLIKELY OECD CAN LEARN ANYTHING FROM THE REPORT AND REPORT DID NOT REVEAL ANY AREAS OECD HAD NEGLECTED

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ACTION EUR-25

INFO OCT-01 EA-11 IO-14 ISO-00 EB-11 AID-20 CEA-02 CIAE-00

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TO COVER.

28. DEFINITION OF MULTINATIONAL ENTERPRISES. EXPERTS HELD ANOTHER INCONCLUSIVE DISCUSSION OF DEFINITION OF TERM MULTINATIONAL ENTERPRISE
BASED ON REFDOC E. U.S. NOTED IMPORTANCE OF CONSIDERING PURPOSES FOR WHICH DEFINITION WOULD BE USED. U.S. RECOGNIZES NEED FOR THRESHOLDS OR CUTOFF POINTS FOR DEFINITIONS USED FOR STATISTICAL PURPOSES. HOWEVER, IF WE GET INTO NORMATIVE AREA, SUCH AS APPLICATION OF GUIDELINES, IT WOULD BE UNACCEPTABLE IF ONLY MNC'S, HOWEVER DEFINED, WERE REQUIRED TO MEET CERTAIN CRITERIA AND OTHER COMPANIES WERE NOT. SOME SUGGESTED MNC CONCEPT MAY DEFY DEFINITION AND THAT BEST APPROACH MAY BE TO LIST VARIOUS CRITERIA. SOME SPECIFIC CRITICISMS OF DEFINITION IN PARA 16 WERE OFFERED. ABRAMOWSKI INDICATED SECRETARIAT WILL REDRAFT THIS PAPER. HE BELIEVES IT IS NECESSARY TO FIND DEFINITION WHICH DISTINGUISHES MNC'S FROM FOREIGN INVESTMENT IN GENERAL WHILE AVOIDING DISCRIMINATION IN APPLICATION OF ANY NORMATIVE STANDARDS.
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